

REMARKS

Reconsideration of the above-identified patent application in view of the amendment above and the remarks below is respectfully requested.

No claims have been canceled, amended or added in this paper. Therefore, claims 1-10 and 15-20 are pending. Of these claims, claims 15-20 have been withdrawn from consideration as being directed to a non-elected invention. Accordingly, claims 1-10 are under active consideration.

Claims 9 and 10 have been allowed.

Claims 1-8 stand rejected under 35 U.S.C. 102(e) “as being anticipated by Schuessler (USPN 6,419,699).” In support of the rejection, the Patent Office states the following:

Schuessler discloses a device with a tube with a lumen which traverses the interior of said body cavity, wherein the tube has an enlargement (8) for anchoring the tube within the body cavity and wherein the tube is attached to an anchoring device (1, 3, 11) as well as an elongated connector member having a lumen extending from a first end of said elongated connector member to second end of said elongated connector member; wherein said elongated member being pivotally mounted to said housing and can be aligned with said tube. (Figures 1A, 1B, 2A, 2B and entire reference)

Applicant respectfully traverses the foregoing rejection. Claim 1, from which claims 2-8 depend, recites “[a] device for insertion into a body cavity to selectively transport liquids to and from said body cavity, comprising:

a tube comprising a lumen which traverses from an interior of said body cavity to an exterior of said body cavity, said tube having a first end and a second end, said second end having an enlargement for anchoring said second end of said tube within a body cavity;

an anchoring device that is attached to said first end of said tube, wherein said anchoring device comprises a housing, and an elongated connector member having a lumen

extending from a first end of said elongated connector member to a second end of said elongated connector member, said elongated connector member being pivotally mounted to said housing to permit movement between a first position in which said elongated connector member is positioned substantially parallel to said tube to align said lumen of said elongated connecting member with said lumen of said tube to permit transportation of liquids to and from said body cavity and a second position in which said elongated connector member is positioned substantially perpendicular to said tube to prevent alignment of said lumen of said elongated connecting member with said lumen of said tube to prevent transportation of liquids to and from said body cavity.”

Claim 1 is neither anticipated by nor rendered obvious over Schuessler for at least the reason that Schuessler does not teach or suggest a device for insertion into a body cavity to selectively transport liquids to and from said body cavity wherein said device comprises, among other things, (i) a tube having a first end and a second end and (ii) an elongated connector member pivotally mounted to a housing to permit movement between **a first position** in which said elongated connector member is positioned substantially parallel to said tube to align a lumen of said elongated connecting member with a lumen of said tube **to permit transportation of liquids to and from said body cavity** and a **second position** in which said elongated connector member is positioned substantially perpendicular to said tube **to prevent alignment of said lumen of said elongated connecting member with said lumen of said tube to prevent transportation of liquids to and from said body cavity**.

Instead, Schuessler discloses a universal implant fill connector 100 in which liquids may be transported from a barb passage 5 to a fill tip passage 7, **regardless of whether barb 4 and fill tip member 16 are substantially parallel to one another or substantially perpendicular to one**

another. Consequently, Schuessler does not teach or suggest the claimed second position in which the elongated connector member is positioned substantially perpendicular to the tube to prevent alignment of the lumen of the elongated connecting member with the lumen of the tube to prevent transportation of liquids to and from the body cavity. In fact, one of the principal objectives of Schuessler is to provide a system that can be used for filling in either a parallel or a perpendicular orientation for “surgical applications calling for either normal or tangential placement of the fill tubing in order to eliminate the requirement for time-consuming analysis before surgery and the potential complications of inflexibly oriented connections during surgery” (see col. 2, lines 3-8, of Schuessler).

Accordingly, for at least the above reasons, the foregoing rejection should be withdrawn.


In conclusion, it is respectfully submitted that the present application is now in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is

required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.


Respectfully submitted,

Kriegsman & Kriegsman

By: 
Edward M. Kriegsman
Reg. No. 33,529
665 Franklin Street
Framingham, MA 01702
(508) 879-3500

Dated: July 22, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 22, 2004.


Edward M. Kriegsman
Reg. No. 33,529

Dated: July 22, 2004